

By: Leach

H.B. No. 2756

A BILL TO BE ENTITLED

AN ACT

relating to the protection of parental rights.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 153.002, Family Code, is amended to read as follows:

Sec. 153.002. THE FUNDAMENTAL RIGHT OF PARENTS AND THE BEST INTEREST OF CHILDREN. (a) It is the public policy of this state, in a suit between a parent and a non-parent, to recognize that in order to preserve the best interests of Texas children and families the state may not inject itself into the private realm of the family to interfere with the right and the high duty of parents to raise their children without first overcoming the presumption that a parent is fit and that a fit parent acts in the best interests of their child;

(b) The best interest of the child shall always be the primary consideration of the court in determining the issues of conservatorship and possession of and access to the child;

(c) The fundamental right of parents to raise their children includes but is not limited to the right to direct the care, custody, control, education, upbringing, moral and religious training, and health care of their child;

(d) A fit parent is one who adequately cares for his or her children;

(e) In a suit between a parent and a non-parent:

(1) Neither the State of Texas nor any political

subdivision of this state may restrict or interfere with a parent's
fundamental right to raise their children unless it is demonstrated
that the restriction or interference is both:

(A) essential to further a compelling
governmental interest; and

(B) narrowly tailored to accomplish the
compelling governmental interest;

(2) A court in this state may not interfere with the
fundamental right of parents to raise their children simply because
the court believes a better decision could be made. Before a court
may interfere with the fundamental right of parents to raise their
children, the court must first overcome the presumption that the
parent is fit and that a fit parent acts in the best interests of
their child. Any restriction on or interference by a court with a
parent's fundamental right must be supported by a finding that:

(A) the parent is unfit; or

(B) the interference is necessary to prevent a
significant impairment of the child's physical health or emotional
well being;

(f) Nothing in this section shall be construed to limit the
right of the state to investigate or act upon a report of child
abuse or neglect allegedly committed by a person responsible for a
child's care, custody, or welfare beyond the limitations already
required by the United States Constitution.